THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.11695 of 1996

Dated :17.07.2007

Between:

Alladi Ganganna S/o Ashanna and others.

..... PETITIONERS

And:

Secretary to Government of A.P., Irrigation and Command Area Development (Irrigation VII,2) Department, Secretariat Buildings, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.11695 of 1996

ORDER:

This writ petition is filed seeking to set aside the award dated 06.04.1996 passed by the second respondent and for a consequential direction to the second respondent to pass fresh award as per G.O.Ms.No.1307 Revenue (Assignment) Depart dated 23.12.1993.

Brief facts are that the petitioners are landless poor persons and they were assigned the lands in various survey numbers situated at Lachimpur village of Talamadugu Mandal in Adilabad District, and they were eking out their livelihood by doing cultivation in the said lands. Thereafter, Government acquired the lands assigned to the petitioners for formation of tank at Lachimpur village and possession of the lands was also taken on 26.04.1991. Later, on 27.07.1994 a notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was issued. As the lands acquired from the petitioners are assigned,

compensation was fixed only for the verifiable improvements made on the lands and not in terms of the market value as provided for under G.O.Ms.No.1307 dated 23.12.1993. Hence, this writ petition seeking a direction to the respondents to pay compensation in terms of G.O.Ms.No.1307, dated 23.12.1993.

Respondents filed a counter opposing the writ petition and stating that possession of the lands in question was taken long prior to issuance of the said Government Order, that the said Government Order is applicable only to the assignees whose lands are coming under submergence in major and medium and power projects, but not for other purposes, and hence petitioners are not entitled for compensation in terms of the said Government Order.

Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

The facts are not in dispute. Possession of the lands in question was taken on 26.04.1991, G.O.Ms.No.1307 was issued on 23.12.1993 and the notification under Section 4(1) of the Act was published on 27.07.1994. It is the case of the petitioners that though the lands in question are assigned lands, they are entitled to compensation on par with full owners, as per the said Government Order. In this context, a larger bench of this Court in ***Land Acquisition Officer-cum-R.D.O., Chevella Division, Hyderabad, v. Mekala Pandu*** [1], held that the assignee is entitled to compensation equivalent to full market value of land and other benefits on par with full owners of land. However, the said judgment was suspended by the Supreme Court in the appeal preferred by the Government and hence, this Court cannot direct the respondents to pay compensation for the lands that were acquired from the petitioners. Of course, Government issued G.O.Ms.No.1307 in the year 1993 stating that assignees are entitled to compensation equivalent to market value. As the notification published under Section 4(1) of the Act was subsequent to the issuance of the Government Order, in my

considered view petitioners are entitled to exgratia in terms of the said G.O. Of course, in the said G.O., it is stated that compensation is to be paid for assigned lands coming under submergence in major and medium irrigation and power projects, etc., and on the basis of the same the learned Assistant Government Pleader tried to impress upon this Court saying that the terms of the said Government Order are applicable only for those assigned lands coming under submergence in major and medium irrigation and power projects. This Court is unable to accede to the said submission. The lands of the petitioners were acquired by the Government for formation of tank and the said formation of tank cannot be said to be altogether different to deny the benefit provided under G.O.Ms.No.1307. Whether it is for formation of tank or submergence, the assignees are entitled for exgratia in terms of the said G.O. Hence, this Court is of the view that the petitioners are not entitled to compensation as per market value, but they are definitely entitled to exgratia in terms of G.O.Ms.No.1307 dated 23.12.1993.

Accordingly, the writ petition is allowed setting aside the award dated 06.04.1996. Respondents are hereby directed to pay exgratia to the petitioners in terms of G.O.Ms.No.1307 dated 23.12.1993. There shall be no order as to costs.

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sh 17.07.2007

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[1] 2004 (2) ALT 546 (L.B),